

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**SHIRLEY ANN COOKS,**

**Plaintiff,**

**v.**

**RENAISSANCE WATERFORD HOTEL  
OKLAHOMA CITY et al.,**

**Defendants.**

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**Case No. CIV-24-896-SLP**

**REPORT AND RECOMMENDATION**

Plaintiff filed an Application to Proceed in District Court without Prepaying Fees or Costs (IFP Motion) (ECF No. 2) in conformance with 28 U.S.C. § 1915. Pursuant to the procedures of this Court the motion was reviewed by the undersigned. Because the IFP Motion was incomplete, Plaintiff was directed to file an amended application. Plaintiff has now submitted 9 additional pages in 2 filings. *See* ECF Nos. 5 and 6.

Having reviewed said filings, the undersigned finds that Plaintiff has sufficient funds to prepay the filing fee of \$405.00.<sup>1</sup> Although the Court was required to piecemeal together Plaintiff's provided application answers, Ms. Cooks ultimately lists sufficient funds available in cash or in a savings/checking account to pay the required full filing fee. Plaintiff also indicates she receives more than \$3,600.00 in monthly income, owns 6 vehicles and 2 homes. *See* ECF Nos. 5:2, 5 and 6.

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<sup>1</sup> The filing fee is \$350.00. *See* 28 U.S.C. § 1914(a). In addition, an administrative fee of \$55.00 must be paid. *See Judicial Conf. Sched. of Fees, Dist. Ct. Misc. Fee Sched.* ¶ 14.

Proceeding IFP “in a civil case is a privilege, not a right – fundamental or otherwise.” *White v. Colorado*, 157 F.3d 1226, 1233 (10th Cir. 1998). “[T]o succeed on a motion to proceed IFP, the movant must show a financial inability to pay the required filing fees.” *Lister v. Dep’t of the Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005). The court evaluates “an application to proceed [IFP] . . . in light of the applicant’s present financial status.” *Scherer v. Kansas*, 263 F. App’x 667, 669 (10th Cir. 2008).

Because Plaintiff does not qualify for authorization to proceed without prepayment of the filing fee, it is recommended that Plaintiff’s IFP Motion, **(ECF Nos. 2 and 5)**, be **DENIED** and that Plaintiff be ordered to pay the full \$405.00 filing fee for this action to proceed. 28 U.S.C. § 1915(a)(1).<sup>2</sup>

It is recommended that this action be dismissed without prejudice to refiling unless Plaintiff pays the \$405.00 filing fee in full to the Clerk of the Court within **twenty (20) days** of any order adopting this Report and Recommendation.

Plaintiff is advised that Plaintiff may file an objection to this Report and Recommendation with the Clerk of this Court by **October 15, 2024**. Plaintiff is further advised that failure to timely object to this Report and Recommendation waives the right to appellate review of both factual and legal issues contained herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

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<sup>2</sup> See *Lister v. Department of the Treasury*, 408 F.3d at 1312 (magistrate judge should issue a report and recommendation when denying motion to proceed *in forma pauperis*).

This report and recommendation disposes of all matters referred to the undersigned magistrate judge in the captioned matter.

ENTERED on September 26, 2024.



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SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE